# SUPREME COURT OF THE UNITED STATES.

No. ~~308.~~ 17,701.

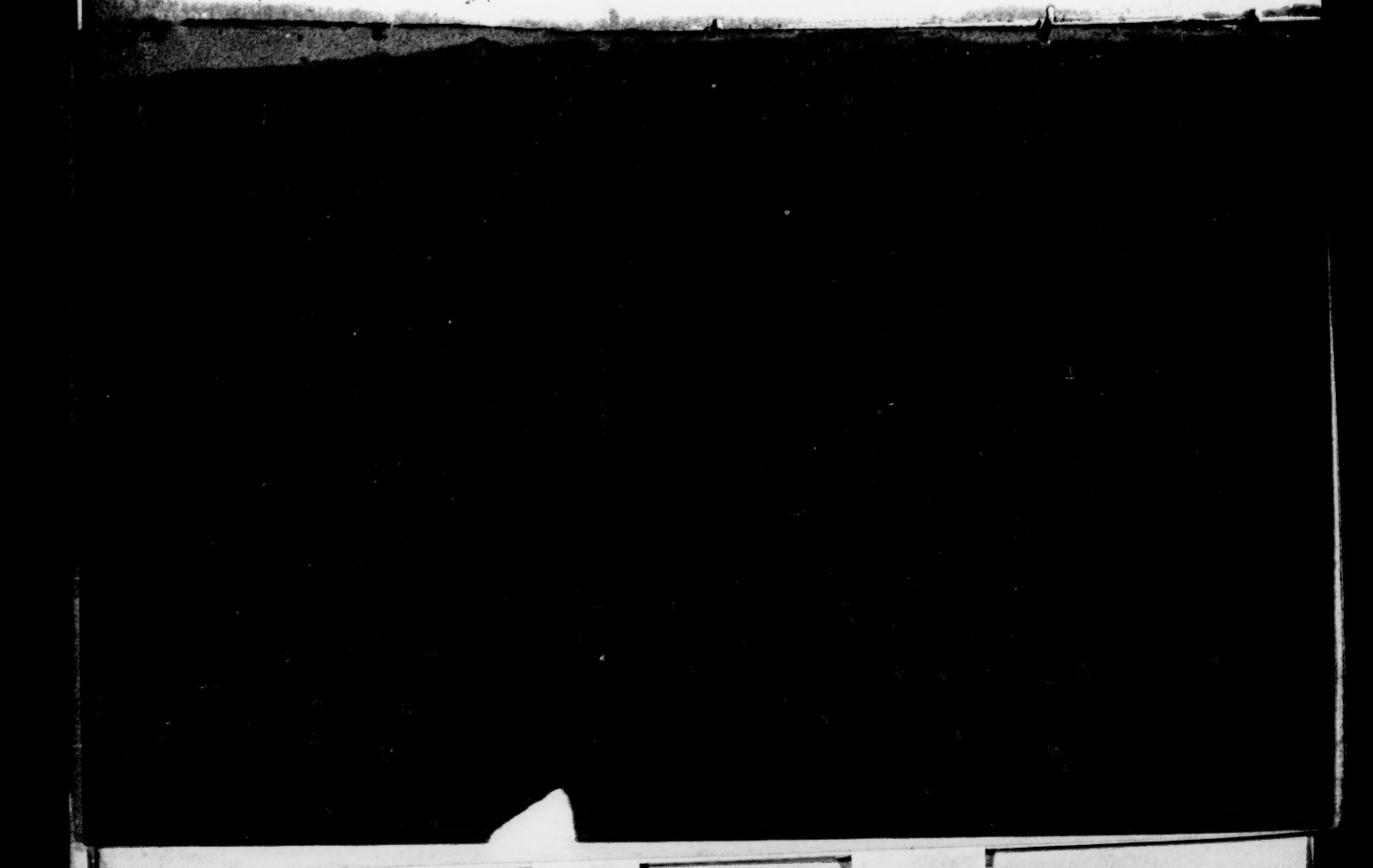
THE UNITED STATES, APPELLANTS,

vs.

GEORGE W. CARPENTER, CLAIMANT OF ONE CASE OF DRY GOODS.

APPEAL FROM THE CIRCUIT COURT OF THE UNITED STATES FOR THE DISTRICT OF MARYLAND.

GOVERNMENT PRINTING OFFICE.



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1 THE UNITED STATES OF AMERICA,
*District of Maryland, to wit:*

At a circuit court of the United States for the fourth circuit in and for the Maryland district, began and held at the city of Baltimore, on the first Monday in April, in the year of our Lord one thousand eight hundred and sixty-three.

Present: The honorable R. B. Taney, chief justice of our superior court; Wm. F. Giles, judge Maryland district; William Price, esq., attorney; Washington Bonifant, esq., marshal; Thomas Spicer, cl'k.

Among other, were the following proceedings, to wit:

THE CLAIMANTS OF ONE CASE OF DRY GOODS
*vs.*
THE UNITED STATES.

Be it remembered that, on the seventh day of July, in the year of our Lord 1863, the claimants of one case of dry goods, by William S. Waters, his attorney, filed in the circuit court here the transcrip of a record from the district court of the United States in and for the Maryland district, in the words and of the tenor following, to wit:

THE UNITED STATES OF AMERICA,
*District of Maryland, to wit:*

At a district court of the United States in and for the Maryland district, begun and held at the city of Baltimore, on the first Tuesday in December, in the year of our Lord one thousand eight hundred and sixty-three.

Present: The honorable Wm. T. Giles, judge of Maryland district; Wm. Price, esq., attorney; Washington Bonifant, esq,, marshal; Thomas Spicer, clerk.

2 Among other, were the following proceedings, to wit:

THE UNITED STATES
*vs.*
ONE CASE OF DRY GOODS. } Libel filed 19 December, 1862.

*Warrant of arrest.*

THE UNITED STATES OF AMERICA,
*District of Maryland, to wit:*

*To the marshal for the Maryland district, greetings:*

We command you that you attach, seize, take, and safely keep, one box or case of dry goods to answer the libel of the United States of America in a cause of condemnation and forfeiture, and how you shall execute this precept you make known to us in our said district court for the district aforesaid at the United States court-room, in the city of Baltimore, on the 29th day of December (instant,) and have

you then and there this writ. Witness: The honorable William F. Giles, judge of our said district court, the first Tuesday in December, in the year of our Lord one thousand eight hundred and sixty-two.

Wm. Price issued 19 December, 1862.

THOMAS SPICER,
*Cl'k Dist. C't.*

*Marshal's returns.*

3 Atta'd 19 December, 1862, and advertised according to law.

WASHINGTON BONIFANT,
*U. S. Marshal.*

*Libel.*

THE UNITED STATES
*vs.*
ONE CASE OF DRY GOODS. } Libel filed 19 December, 1862.

UNITED STATES OF AMERICA,
*District of Maryland to wit:*

*To the honorable William F. Giles, judge of the district court of the United States for the District of Maryland:*

William Price, attorney for the United States for the district aforesaid, in the name and on behalf of the said United States propounded and gives the said judge to understand and be informed that, on the 11th day of December, 1862, John J. McJilton, the surveyor of the port of Baltimore, in the district aforesaid, did seize one large box or case, containing dry goods, on board the schooner Henry & Susan, and now hath the same in his custody, as being forfeited to the United States for the causes hereinafter stated. And the said attorney of the United States informs, alleges, and articulative propounds as follows, to wit:

First. That the President of the United States, by virtue of the powers in him vested, and in pursuance of the provision of the second section of the act of Congress, entitled "An act to provide for calling forth the militia to execute the laws of the Union, suppress in-

4 surrections, and to repel invasion, and to repeal the act now in force for that purpose, approved February 28th, 1795," did, prior to the first day of October, 1862, call forth the militia to suppress combinations against the laws of the United States, and to cause the laws to be executed, and the insurrection did fail to disperse by the time directed by the President.

Second. That the said insurgents did claim to act under the authority of divers States of the said United States, and such claim is not disclaimed or repudiated by the persons exercising the functions of government in said States or sections, or in the part or parts thereof in which the said combinations exist, nor is said insurrection suppressed by said State or States where the same exists.

Third. That the President of the United States, by virtue of the powers in him vested, and in pursuant of the acts of Congress in

such cases made and provided, did, prior to the aforesaid first day of October, 1862, by proclamation, declare that the inhabitants of certain States, or sections thereof, were in a state of insurrection against the United States.

Fourth. That the said States or sections, or parts of the United States, so declared as aforesaid to be in a state of insurrection, were as follows, to wit: Georgia, South Carolina, Tennessee, Virginia, North Carolina, Texas, Arkansas, Mississippi, and Florida, (except the inhabitants of that part of Virginia lying west of the Allegany mountains,) &c.

Fifth. That thereupon, and by reason of the premises and by force of the acts of Congress in such cases made and provided, all commercial intercourse by and between the same and the citizens thereof and the citizens of the rest of the United States shall cease and be unlawful so long as such condition of hostility shall continue, and that all goods and chattles, wares and merchandise coming from such State or section into the other parts of the United States, and also proceeding to such State or section, by land or water, shall, together with the vessel or vehicle conveying the same, or conveying persons to or from such State or section, be forfeited to the United States, except that the President of the United States may, in his discretion, license and permit such commercial intercourse with any such State or section, the inhabitants whereof are so declared in a state of insurrection in such articles and for such time and by such persons as he, in his discretion, under and in pursuance of rules and regulations to be prescribed by the Secretary of the Treasury, may think most conducive to the public interests, and the said commercial intercourse shall be conducted and carried on only in pursuance of rules and regulations to be prescribed by the Secretary of the Treasury.

Sixth. That the said Secretary of the Treasury, by virtue of the powers in him vested, did prescribe certain rules and regulations for the conducting of such commercial intercourse as should the President of the United States be licensed, and did appoint certain officers of the customs to carry into effect said rules and regulations and licenses precribed and granted by the said Secretary of the Treasury and the President of the United States.

Seventh. That the said Secretary of the Treasury, by virtue of the authority in him vested, and in pursuance of the act entitled "An act supplementry to an act approved on the 13th of July, 1861, entitled an act to provide for the collection of duties on imports and other purposes," approved May 20, 1862, did, prior to the first day of October, 1862, to wit, on the 28th day of August, 1862, establish certain rules and regulations for and concerning internal and coast wise commercial intercourse, wherein it is declared that any false statement be made or deception practiced in obtaining a permit for the shipment or transportation of goods, wares, or merchandise, according to the manner and under the circumstances and conditions as set forth in the said acts of July 13, 1861, and May 20, 1862, and the said rules and regulations made in pursuance thereof, such, and all

others connected therewith, or affected thereby, shall be absolutely void, and all merchandise shipped thereunder shall be forfeited to the United States.

Eighth. That on or about the 11th day of December, 1862, a false statement was made and deception practiced on obtaining the permit from the custom-house officer for one R. D. P. Ratcliff, Nanji-
7 may, Charles county, Maryland, for the shipping or transportation of the said box or case of dry goods on board the schooner "Henry & Susan," under said permit as aforesaid.

Ninth. That all and singular the premises are true, and within the jurisdiction of the acts of Congress and the said rules and regulations of the Secretary of the Treasury in such cases made and provided; the said box or case of dry goods hath become and is forfeited to the United States. Thereupon the said attorney of the United States prays the usual process of this court in this behalf to be made, and that all persons interested in said box or case of dry goods may be warned to appear, and that, for the causes aforesaid and others appearing, the said box or case of dry goods may, by the definitive sentence and decree of this court, condemned as forfeited to the United States, according to the form of the statues of the United States in such cases made and provided.

WM. PRICE,
*U. S. Dist. Att'y.*

*Decree.*

In the district court of the United States for the district of Maryland.

UNITED STATES
*vs.*
ONE CASE OF DRY GOODS.

The cause standing ready for hearing, the counsel for the United States appearing, the evidence having been duly considered, and notwithstanding due notice given, no claimants appearing, it
8 is thereupon, this third day of January, 1863, adjudged, ordered, and decreed, that the said case of dry goods be condemned as forfeited to the United States; and it is further ordered that the marshal do sell the same at public auction for cash, after giving five days' notice thereof in two newspapers printed and published in the city of Baltimore; and it is further ordered that the marshal do pay the proceeds of said sale into the registry of this court, to await the further order of the court in the premises.

WILLIAM F. GILES.

Afterwards, to wit, on the fourteenth day of January, in the year of our Lord one thousand eight hundred and sixty-three, a certain George W. Carpenter, of Charles county, Maryland, by William S. Waters, his proctor, filed in the district court here a petition in the words following, to wit:

*Petition.*

U. S. district court, district of Maryland.

THE UNITED STATES
*vs.*
ONE BOX OF DRY GOODS.

*To the honorable William F. Giles, judge of the district court of the United States for the district of Maryland:*

The petition of Geo. W. Carpenter, of Charles county, Maryland, respectfully represents, that a libel was filed in the above case on the 19th day of December, 1862, and that a decree was passed thereon on the 3 day of January, 1863, condemning as forfeited the box of dry goods in the above case named; that your petitioner is
9 the owner of the said box of dry goods; that he has been at his residence, in Charles county, since and before the filing of the said libel, and had no notice of the proceedings in the above cause until some time after the decree was passed, and that the said decree operates as a suprise to him.

Your petitioner is advised that the libel in the above case alleges that no cause in law for this condemnation of said box of dry goods, and he avers that if it did, your petitioner made no false statements, or practiced any deceptions as charged. Your petitioner prays that your honor will recind the above decree, allow him to appear as claimants of said property, to answer the said libel, and defend the same, and as in duty bound, &c.

WM. S. WATERS,
*Proctor for Petitioner.*

STATE OF MARYLAND,
*Baltimore City:*

On this 13th day of January, 1863, appeared before the subscriber, a justice of the peace of said State in and for the said city, Daniel J. Foley, and made oath that the matters of facts in the above petition stated are true, to the best of his knowledge and belief.

WM. H. HAYWOOD, *J. P.*

*Order of court.*

January 14th, 1863.—Ordered by the court that the within petition be dismissed, the time having elapsed within which the decree could be by rule of court, and the term having been adjourned.

WM. T. GILES.

10 *Petition.*

U. S. district court, district of Baltimore.

THE UNITED STATES
*vs.*
ONE BOX OF DRY GOODS.

*To the honorable William F. Giles, judge of the district court of the United States for the district of Maryland:*

The petition of G. W. Carpenter, of Charles county, Maryland, respectfully represents, that a libel was filed in the above case on the 19th day of December, 1862, and that a decree was passed therein on the 3d day of Jan'y, 1863, condemning as forfeited the box of dry goods in the above cause named; that your petitioner is the owner of said box of dry goods; that he has been at his residence, in Charles county, since and before the filing of said libel, and had no notice of the proceedings in the above cause until some time after the decree was passed, and that the said decree operates as a suprise upon him.

Your petition is advised that the libel in the above case alleges no cause in law for the condemnation of said box of dry goods, and he avers that if it did, your petitioner made no false statements or practiced any deception as charged.

Your petitioner further states, that on the 14th day of January, 1863, he filed his petition, stating the above facts, and the same was verified by affidavit, and praying the court to rescind the said decree, as will appear by reference to said petition. That said peti-
11 tion was dismissed, because the time had elapsed within which, by rules of court, the decree could be recinded, and the regular terms of the court had adjourned.

Your petitioner now prays that he may be allowed to appeal from said decree, and to take out the said box of dry goods on stipulation, and for such relief as his case requires.

WM. S. WATERS,
*Proctor for Claimant.*

*Order of court.*

Ordered by the court, this 17th of January, 1863, that the petitioner, G. W. Carpenter, have leave to appeal from the decree stated in the within petition to the next term of the circuit court of the United States in and for the district of Maryland, on giving the usual bond to cover costs.

WILLIAM F. GILES.

*Petition for warrant of appraisement.*

District court U. States, district of Maryland.

THE UNITED STATES
*vs.*
ONE BOX OF DRY GOODS.

*To the honorable William F. Giles, judge of the district court aforesaid:*

The petition of G. W. Carpenter respectfully represents, that he is desirous of taking out on stipulation the box of dry goods in the above case named, and prays that a warrant of appraisement may be issued to appraise the same, and that he may be allowed to stipulate for them at the value so appraised.

WM. S. WATERS,
*Proctor for Claimant.*

12 *Order of court thereon.*

Ordered by the court, this 17th day of January, 1863, that a warrant of appraisement issued to Lewis Clark and Daniel Kernan to appraise the goods mentioned in the above petition.

WILLIAM F. GILES

*Warrant of appraisement.*

THE UNITED STATES OF AMERICA,
*District of Maryland, to wit:*

*To Lewis Clark and Daniel Kernan, esq'rs, greeting:*

Whereas a certain cause of libel moved and prosecuted [SEAL.] before the district court of the United States in and for the Maryland district, in behalf of the United States of America against one box of dry goods, the aforesaid court, on the seventeenth day of January, 1863, ordered a warrant to issue for the appraisement of the said dry goods, (justice so requiring.) You are therefore, by these presents, authorised and empowered, jointly and severally, and strictly charged and commanded, that you faithfully and justly appraise the said dry goods according to their value; and that you so appraise and value the same; and that you duly transmit the said appraisement, subscribed by you, to the aforesaid court, together with these presents, with all convenient speed.

Witness the Hon'l William F. Giles, judge of our said district court, the first Tuesday in December, in the year of our Lord one thousand eight hundred and sixty two.

THOMAS SPICER,
*Cl'k Dis't C't.*

Issued 17th January, 1863.

13 *Appraisers' return.*

The undersigned, appraisers appointed by virtue of the annexed warrant of appraisement, report to the honorable the district court of the United States for the Maryland district, that after being duly sworn, according to law, they proceeded to appraise and value "one box of dry goods," mentioned in the said warrant of appraisement, and find the same to be worth the sum of five hundred and eighty-two dollars and fifty-six cents.

$582 56. LEWIS CLARK. [SEAL.]
DANIEL KIRNAN. [SEAL.]

Sworn to this 23d day of January, 1863, before me.
THO. SPICER,
*Cl'k Dis't C't, & U. S. Commissioner, ex officio.*

*Claim.*

*To William F. Giles, judge of the United States district court of Maryland:*

And now comes Daniel J. Foley, the agent of George W. Carpenter, owner of one box of dry goods, against which a libel has been filed in this court by the United States of America, libellants, and says that the said George W. Carpenter is the true and bona fide owner of the said box of dry goods, and that no other person is the owner thereof; and that he, the said Daniel J. Foley, is duly authorised by the said owner to put in a claim in his behalf to the same.
D. J. FOLEY.

Sworn and subscribed to this 26 day of January, 1863, before me.
JOHN HANAN,
*U. S. Commissioner.*

14 *Stipulation.*

THE UNITED STATES OF AMERICA,
*District of Maryland, to wit:*

Be it remembered, that on this twenty-sixth day of January, in the year of our Lord one thousand eight hundred and sixty-three, before me, John Hanan, a commissioner appointed by the circuit court of the United States for the fourth circuit, in and for the Maryland district, pursuant to an act of Congress, entitled "An act for the more convenient taking of affidavits and bail in civil causes depending in the courts of the United States," appears Daniel J. Foley and George W. Webb, of the district aforesaid, in their proper persons, and submit themselves to the jurisdiction of the district court of the United States for the district of Maryland, and consent to bind themselves, and do acknowledge themselves, their heirs, executors, and administrators to be bound in the sum of eleven hundred dollars, for the claimant of the box of dry goods, unto the United States of

America, to perform and fulfil the final order and decree of the said district court; and in case of an appeal from such final order and decree of the said district court, then the final order and decree of the circuit court of the United States for the fourth circuit, in and for the Maryland district, and in case of an appeal from such final order and decree of the said circuit court, then the final order and decree of the Supreme Court of the United States, in a certain cause
15 now depending in the said district court, wherein the said United States of America is plaintiff and the claimant of the said box of dry goods is respondent; and unless they so do, they severally consent that execution shall issue against them, their heirs, executors, and administrators, their goods and chattles, lands and tenements, wheresoever found or to be found.

Acknowledged before—

JOHN HANAN,
*U. S. Commissioner.*

*Appeal bond.*

Know all men by these presents, that we, D. J. Foley and George W. Webb, are held and firmly bound unto the United States of America in the just and full sum of two hundred and fifty dollars, lawful money of the United States, to be paid to the said United States, their certain attorney, successors, or assigns, to which payment, well and truly to be made and done, we hereby bind ourselves, our heirs, executors, and administrators, jointly and severally, firmly by these presents, sealed with our seals, and dated this twenty-sixth day of January, in the year of our Lord one thousand eight hundred and sixty-three: Wheras, at a district court of the United States in and for the Maryland district, begun and held in the city of Baltimore, on the first Tuesday in December, in the year of our Lord one thousand eight hundred and sixty, the said United States of America, by the decree of the same court, obtained a decree of condemnation and forfeiture to the United States against one case of dry goods;
16 from which said decree, so as aforesaid passed, G. W. Carpenter, of Charles county, State of Maryland, claimant of said case of dry goods, hath prayed an appeal to the circuit court of the United States for the fourth circuit in and for the Maryland district, to be held at the city of Baltimore, on the first Monday in April next:

Now, the conditions of the above obligation is such, that if the said G. W. Carpenter shall well and truly prosecute his said appeal with effect, and pay unto the said United States, their certain attorney, successors, or assigns, all such damages, cost, and charges as shall be awarded unto them by the said circuit court, in case the said G. W. Carpenter shall fail to make good his appeal, then the above obligation to be void and of none effect; otherwise to be and remain in full force and virtue in law.

D. J. FOLEY. [SEAL.]
GEO. W. WEBB. [SEAL.]

Witness: THO. SPICER.

In testimony that the aforegoing is a true copy taken from the records and proceedings of the district court aforesaid, I hereunto subscribe my name and affix the seal of the said district court this seventh day of February, in the year of our Lord one thousand eight hundred and sixty-three.

THO. SPICER,
*Cl'k Dis't C't.*

And now, here at this day, to wit, the 2d day of May, in the year of our Lord 1862, Geo. W. Carpenter, claimant of the said goods, by Daniel J. Foley, his agent, filed in the circuit court here his claim and answer to the libel against the said box of dry goods in the words and figures following, to wit:

In the circuit court of the United States for the district of Maryland.—
In admiralty.

The answer of Daniel J. Foley, agent for Geo. W. Carpenter, claimant of the box of dry goods, against which a libel has been filed by the United States in the district court of the United States for the district of Maryland, and upon the decision of which court an appeal has been taken to this court. And now comes into court the said Daniel J. Foley, agent of said Geo. W. Carpenter, claimant as aforesaid, and for answer to said libel, doth allege and propound as follows, to wit:

First. That George W. Carpenter is the true and bona fide owner of said box of dry goods, and that no other person is the owner thereof; and that he, this respondent, is his agent, duly authorized to claim in his behalf.

Second. In answer to the first, second, third, fourth, and fifth articles in said libel contained, this respondent says he has no knowledge, except such as is disclosed by the acts of Congress and the acts and proclamation of the President, and he submits to the court the legal effects of such acts and proclamation.

Third. In answer to the sixth article in said libel, this respondent says he has no knowledge that the Secretary of the Treasury
18 has precribed rules, as alleged in this article, except from heresay, and if it should appear to the court that such rules have been prescribed, he submits their validity and effect to this court.

Fourth. In answer to the seventh article in said libel contained, this respondent says he has no knowledge of the adoption of such rules as are stated in this article, and he prays that if such rules have been adopted, they may be produced in court, and he submits to this court their validity and effect.

Fifth. In answer to the eighth article in said libel, this respondent denies that the allegation therein contained is true, and says that the same is false.

D. J. FOLEY.

Subscribed and sworn to this 2d day of May, 1863, before me.
JOHN HANAN,
*U. S. Commissioner.*

UNITED STATES
*vs.*
BOX OF DRY GOODS.

In this case, J. E. R. Crabbe testifies that he was, at the time when the said box of dry goods were seized, salesman in the house of Wm. A. Dean, in Baltimore. That the dry goods in question were sold to G. W. Carpenter by Dean. R. P. D. Ratcliffe authorized Dean to ship the goods in his name to Nanjemoy, Charles county.

In pursuance of Ratcliffe directions, the goods were shiped
19 on board the Henry and Susan for the said place. The regular permits were obtained from the custom-house before they were shipped by Dean. Dean has none of the papers upon which the permits were obtained, nor the permit, if any, but presume they are in the custom-house.

J. E. R. CRABBE.

Subscribed and sworn to this 20th day of May, 1863, before me.
JOHN HANAN,
*U. S. Commissioner.*

*Amended libel.*

In the district court of the United States for the district of Maryland.

THE UNITED STATES
*vs.*
ONE CASE OF DRY GOODS.

*To the honorable Wm. F. Giles, judge of the district court of the United States for the district of Maryland:*

Tenth. That the said applicant, Wm. A. Dean, did, on or about the 8th day of December, 1862, practice deception in obtaining a permit for the shipment of the said case of dry goods in this, that he did not state truly the consignee of the said case of goods; that is to say, the said applicant, Wm. A. Dean, did state the said R. D. C. Ratcliffe to be the consignee of the said case of goods, when the truth was, the said Ratcliffe was not the consignee.

Eleventh. That the said applicant did farther practice deception in obtaining the said permit for the shipment of said goods, in this, that the said applicant sent the said case of goods to the said vessel as part of the goods of said Ratcliffe, intending the same to
20 be made a part of the goods shipped by the said Ratcliffe, and intending to falsely represent that *that* the said goods belonged to the said Ratcliffe, and to conceal the fact of their belonging to one G. W. Carpenter.

Twelfth. That all and singular the premises are true, &c., as aforesaid.

WM. P. RICE, *U. S. Dist. Att'y.*

SURVEYOR'S OFFICE, BALTIMORE, MD.,
*Baltimore, December* 8, 1862.

*To whom it may concern:*

This may certify that Wm. A. Dean has this day filed in my office an application for permit to ship from this port to R. D. P. Ratcliffe,

of Nanjemoy, Charles county, Maryland, to be delivered to him by way of schooner Henry & Susan, the following described goods, wares, and merchandize, viz: One case of dry goods, marked R. D. P. Ratcliffe, Nanjemoy, Charles co., Md.; which are of the aggregate value of $613 22/100, and are contained in one packages, marked as above described; and the said Wm. A. Dean, having filed copies of the invoices of the said goods, wares, and merchandise in my office, and made oath before me, pursuant to the rules and regulations of the Treasury Department: Now, therefore, by virtue of the authority vested in me, I do hereby authorize and permit the said Wm. A. Dean to ship the said goods, wares, and merchandise, so contained in one package, on board the schooner ————, now in this port, to be delivered to —— ———, at ——— by the route above named.

21

In testimony thereof, I have hereunto affixed my name and seal of office, the day and year of the date hereof.

JNO. F. McJILTON,
*Surveyor of the Customs, &c.*

BALTIMORE, *Decem.* 8, 1862.

Mr. R. D. R. RATCLIFFE bought of WM. A. DEAN, importer and jobber in staple and fancy dry goods, No. 236 Baltimore street.

[All claims for deductions must be made within 24 hours from receipt of goods. Terms: cash, on demand.]

| | | | | | |
|---|---|---|---|---|---|
| | 1 ps. 4/4 fulled kersey | 27[2] | 1 50 | | 41 25 |
| | 1 " 3/4 do. | 33[2] | 60 | | 20 10 |
| | 4 " striped flannel | 109[2] | 4[2] | | 46 54 |
| | 10 " black & B. & W. prints | 418 | 18 | | 75 24 |
| 1 | 4 " Eng. fan. do | 244[3] | 18[2] | | 45 18 |
| 2 | 11 " fancy do | 454[3] | 17 | | 77 31 |
| 3 | 6 " do do | 279[3] | 17[2] | | 48 95 |
| 4 | 9 " do do | 398[2] | 16 | | 63 76 |
| | 6 " 7/4 bl'ch'd muslin | 265 | 23 | | 60 95 |
| | 3 doz. hoop skirts | 3 | 8 50 | | 25 50 |
| 103 | 2 " cotton h'dk'f | 2 | 1 20 | | 2 40 |
| 197 | 2 " Eng. do | 2 | 2 00 | | 4 00 |
| 443 | 1 ps. do do | 1 | 1 50 | | 1 50 |
| 475 | 1 " do do | 1 | 2 00 | | 2 00 |
| 140 | 3 doz. L. cambric h'dk'f | 3 | 1 00 | | 3 00 |
| 170 | 3 " do do | 3 | 1 50 | | 4 50 |
| | 40 " spool cotton | 40 | 90 | | 36 00 |
| 25 | 3 lbs. black pat. thr'd | 3 | 1 25 | | 3 75 |
| 35 | 4 " do do | 4 | 1 50 | | 6 00 |
| 40 | 3 " do do | 3 | 1 70 | | 5 10 |
| | 3 ps. plaid linsey topell | 112[3] | 25 | | 28 19 |
| | Box, cooperage, and dray | | | | 1 00 |
| | | | | | 602 22 |
| 2 | 2 M needles | 2 | 1 75 | | 3 50 |
| 3 | 3 packs pins | 3 | 80 | | 2 40 |
| 4 | 4 " do | 4 | 75 | | 3 00 |
| 5 | 3 " do | 3 | 70 | | 2 10 |
| | | | | | $613 22 |

THE UNITED STATES OF AMERICA,
*District of Maryland, to wit:*

I, John Hanan, a commissioner appointed by the circuit court of the United States for the fourth circuit in and for the Maryland district, pursuant to the act of Congress entitled "An act for the more convenient taking of affidavits and bail in civil causes depending in the courts of the United States," do hereby certify that on the 19th day of May, in the year of our Lord one thousand eight hundred and sixty-three, personally appeared before me, John F. McJilton, a witness for the United States in a certain civil cause depending in the circuit court of the United States for the district of Maryland, on an appeal from the United States district court of— About the
23 10th or 11th of December, 1862, some person from the house of William A. Dean, merchant on Baltimore street, Baltimore, made application to me for a permit to ship a box of dry goods to R. D. P. Ratcliffe, of Charles county, Maryland; which was granted. After the goods were placed on board the schooner Henry & Susan, Mr. Ratcliffe saw the box and disowned it, stating that he had not purchased said goods, as all his goods were included in one permit, obtained by himself. I then seized the box and ascertained the goods were purchased by G. W. Carpenter, who could not himself obtain the permit, he not being willing to comply with the requirements of the regulations of the Treasury Department relating to internal and coastwise intercourse. Mr. Ratcliffe denied having given permission to use his name in the shipping of the goods or of using his name for to obtain the permit.

JNO. F. McJILTON,
*Surveyor of Customs, Baltimore.*

*Exhibit A.*

G. W. Carpenter bought the above goods, and had the bill of goods made out in my name without my approbation.

R. D. P. RATCLIFFE.

Schooner Henry & Susan, of St. Mary's (Captain C. H. Lacy says of Washington) for Nanjemy creek.

THE UNITED STATES OF AMERICA,
*District of Maryland, set:*

I, John Hanan, a commissioner appointed by the circuit
24 court of the United States for the fourth circuit in and for the Maryland district, pursuant to the act of Congress entitled "An act for the more convenient taking of affidavits and bail in civil causes depending in the courts of the United States," do hereby certify that on the twenty-sixth day of May, in the year of our Lord one thousand eight hundred and sixty-three, at my office in the city of Baltimore, within the district of Maryland, personally appeared before me William J. Bryson, a witness for the appellee, in a certain civil cause depending in the circuit court of the United States for the

district of Maryland, on an appeal from the United States district court of Maryland, wherein the claimants of a box of goods are appellant, and the United States of America is appellee.

And the said witness being by me first carefully examined and cautioned, and duly sworn, according to law, to testify the whole truth, and being examined on behalf of the ———— makes oath, deposeth and saith as follows, to wit:

1 question. What is your business?

Answer. Inspector of customs.

2 question. About what time was this seizure of dry goods made, purporting to be consigned to Mr. Ratcliffe?

Answer. About the eighth of Sept. last.

25 Question. Will you state the circumstances of this seizure; how, when, and where made?

Answer. On September the 8th last, it was my duty to examine all bills and permits of goods on board vessels from South street to Union dock, after they had cleared from the custom-house. In examining these bills on board the schooner Henry & Susan, Mr. Ratcliffe was present; in examining that bill he said he did not purchase that bill of goods; it was sent here without my approbation, and I'll have nothing to do with it. I asked him how the permit was obtained, and he said he did not know how it could have been obtained in his name. I asked him if he had no idea who shipped the box, and he said he thought George W. Carpenter had done it. Mr. Ratcliffe said he was not the consignee of said box of goods, and would allow no one to ship in his name without consulting him; he said he was not consulted in this case, and seemed very much displeased.

Question. Did Mr. Ratcliffe give you a certificate? And what was it?

Answer. This is the certificate herewith filed, marked Exhibit A.

Question. Were these goods on board the vessel at the time you seized them?

Answer. Yes; she had cast her lines and was moving away.

26 *Cross-examined.*

Witness states that according to the practice at the custom-house, sometimes permits are allowed to consignees who are not owners, as well as to real owners.

WM. J. BRYSON.

And I, John Hanan, commissioner as aforesaid, do hereby certify that said deposition was taken by consent.

Given under my hand and seal, at the city of Baltimore, within the district of Maryland, this 26th day of May, A. D. 1863.

JOHN HANAN,
*U. S. Com'sr.*

Circuit court, 4th judicial circuit, district of Maryland.

*Appeal from U. States district court, dist. of Mary'd.*

THE CLAIMANT OF ONE CASE OF DRY GOODS
*vs.*
UNITED STATES.

This cause standing ready for hearing, the proceedings having been read and considered, and the proctors having been heard for both parties, it is thereupon, this 15th day of June, 1863, by the circuit court aforesaid, ordered, adjudged, and decreed, that the decree of the district court in this case be, and the same is hereby, reversed; and that the case of dry goods in the proceedings mentioned be delivered to the claimant.

R. B. TANEY.

27 From which said decree, so as aforesaid papers, the said United States of America, by their att'y aforesaid, prayed an appeal to the Supreme Court of the United States, to be held at the city of Washington, on the first Monday in December next, and to him it is granted. Thereupon it is ordered by the court here that the record and proceedings aforesaid, with all things concerning the same, to be transmitted to the said Supreme Court, and the same are hereby transmitted accordingly.

In testimony that the foregoing is a true copy taken from the record and proceedings at the circuit court aforesaid, I hereunto subscribe my name and affix the seal of the said circuit court, this fourth day of December, in the year of our Lord one thousand eight hundred and sixty-three.

[SEAL.]

THO. SPICER,
*Cl'k Circ't C't.*

Filed 10 December, 1863.

# SUPREME COURT OF THE UNITED STATES.

THE UNITED STATES APPELLANTS,

vs.

GEORGE W. CARPENTER, CLAIMANT OF ONE CASE OE DRY GOODS.

APPEAL FROM THE CIRCUIT COURT OF THE UNITED STATES FOR THE DISTRICT OF MARYLAND.

IN THE

# Supreme Court of the United States.

THE UNITED STATES,

*vs.*

CARPENTER, Claimant of one case of Dry Goods.

THE libel in this case was filed on December 19th, 1862, in the District Court of the United States for the District of Maryland, against the case of dry goods, claimed by the Appellee in this case.

The libel alleges, *First*, That the President had, prior to the first day of October, 1862, called forth the militia to suppress combinations against the laws of the United States and to cause the laws to be executed, but that the insurrection was not quelled.

*Second*, That the insurgents claim to act under the authority of States, and that claim was not repudiated by persons exercising functions of Government in those States, nor was the insurrection suppressed by the States.

*Third*, That the President had, prior to said first day of October, 1862, by proclamation, declared the inhabitants of certain States, in insurrection against the United States.

*Fourth*, That the States, or parts of States, so declared to be in insurrection, were Georgia, South Carolina, Tennessee, Virginia, North Carolina, Texas, Arkansas, Mississippi and Florida, except that part of Virginia lying west of the Allegany mountains.

*Fifth*, That thereupon all commercial intercourse between the citizens of these States should cease so long as such hostility should exist, and that no goods, wares or merchandise should come from such States into the other part of the United States, or from other parts of the United States into those States, upon pain of forfeiture, and that the President should, in his discretion, license and permit commercial intercourse for such time, and by such persons, as he, under and in pursuance of the regulations and rules to be prescribed by the Secretary of the Treasury, might think most conducive to the public interest, and that commercial intercourse between the sections aforesaid should be conducted,

and carried on only in pursuance of rules and regulations prescribed by the Secretary of the Treasury.

*Sixth*, That the Secretary of the Treasury did prescribe rules.

*Seventh*, That the Secretary of the Treasury, in pursuance of an "Act supplementary to an Act approved on the 13th of July, 1861, entitled an Act to provide for the collection of duties and imposts and other purposes," approved May 20th, 1862, did, on the 20th of August, 1862, establish rules and regulations concerning internal and coastwise commercial intercourse, wherein it is declared: that if any false statement be made, or deception practiced, in obtaining a permit for the shipment or transportation of goods, according to the manner, and under the circumstances and conditions as set forth in said Acts of 13th of July, 1861, and May 20th, 1862, and the said rules and regulations made in pursuance thereof, such a permit shall be void, and all merchandise shipped thereunder shall be forfeited.

*Eighth*, That on or about the 11th of December, 1862, a false statement was made, and deception practised in obtaining a permit from the Custom House officer for one Radcliffe, Nanjemoy, Charles County, Md, for shipping the box of dry goods in question on board the "Henry & Susan" under said permit.

There was no claim put in for said box of goods, or answer made to said libel, and on the 3d of January, 1863, a decree was passed forfeiting the box of goods. Subsequently, by permission of the Court, a claim was put in by George A. Carpenter for said goods, and an appeal taken from the decree of the Circuit Court of the United States for the District of Maryland. In the Circuit Court the libel was amended by adding thereto Articles 10th and 11th, as follows:

10th. That the applicant U. A. Dean did, on the eighth day of December, 1862, practice deception in obtaining a permit for the shipment of said goods in this, that he did not state truly the consignee of the goods, that he stated that Radcliffe was consignee, when in fact he was not

11th. That said Dean practiced deception in obtaining the permit, in that he sent the goods to the vessel as part of the goods of Radcliffe; and to conceal the fact that they belonged to Carpenter.

The Claimant answered the libel, submitting the construction and legal effect of the various acts of the President; and the Secretary of the Treasury to the Court, and denying all the allegations of deception. The evidence shows, that the goods in question were sold by Dean of Baltimore to G. A. Carpenter. That Radcliffe authorized the goods to be shipped, in his name, to Nanjemoy, Charles County, Md. That in pursuance of Radcliffe's

directions, the goods were shipped on board the Henry & Susan for that place, and the regular permits obtained. The Surveyor of Customs swore, that the permit was obtained as above, but upon going on board the boat, Radcliffe in his presence disowned the box, stating that he had not purchased it, whereupon the goods were seized. Bryson, an officer of the Customs, states the same thing, and that, according to the practice at the Custom House in Baltimore, permits were allowed to consignees, who were not owners, as well as to real owners.

On the 15th of June, 1863, the decree of the District Court was reversed by the late Chief Justice Taney, and the goods ordered to be delivered to the Claimant. From this decree the United States has appealed.

The libel states the names of the States in insurrection, and that all commercial intercourse between them and other parts of the United States was illegal, but it no where states, that the goods in question were intended for such illegal intercourse. It states, that the permit was obtained to carry them to Charles County, Md. but does not state whence they were shipped, or that they were shipped for any illegal object Supposing them to be shipped from Baltimore, it nowhere appears in the libel that any provision, either of law or of the regulations of the Secretary of the Treasury, would have been violated by their shipment without permit. The regulations of the Secretary of the Treasury are not filed as evidence, and are not in the record. Upon the allegations and proof then, the decree must be affirmed.

But without conceding or waiving any right on account of the absence of allegations and proof in the record, the Appellee submits the following points upon the case as presented by the facts, and upon the presumption, that the Treasury Regulations are a part of the Record. The question is, could the Secretary of the Treasury prohibit, on pain of forfeiture, a citizen of Charles County, in Maryland, from transporting to his home, without such permit, merchandise purchased in Baltimore?

The regulations of the Secretary of the Treasury purport to be based upon the Act of Congress of July 13th, 1861, and of May 20th, 1862.

The part of the Act of July, 1861, applicable to this case is as follows:

This Act provided, that when insurrection existed against the authority of the United States in any State or part of a State, "And such insurgents claim to act under the authority of any State or States, and such claim is not disclaimed or repudiated by the persons exercising the functions of Government in such State

or States, or in the part or parts thereof in which such combinations exist, nor such insurrection suppressed by said State or States, then, and in such case, it may and shall be lawful for the President, by proclamation, to declare that the inhabitants of such State, or any section or part thereof, where such insurrection exists, are in a state of insurrection against the United States, and thereupon all commercial intercourse by and between the same, and the citizens thereof, and the citizens of the rest of the United States shall cease, and be unlawful, so long as such conditions of hostility shall continue; and all goods and chattels, wares and merchandise, coming from said State or section into the other parts of the United States, and all proceeding to such State or section by land or water, shall together with the vessel or vehicle conveying the same, or conveying persons to or from such State or section, be forfeited to the United States Provided, however, that the President may, in his discretion, license and permit commercial intercourse with any such part of said State or section, the inhabitants of which are so declared in a state of insurrection, in such articles and for such time, and by such persons, as he in his discretion, may think most conducive to the public interest; and such intercourse so far as by him licensed, shall be conducted and carried on only in pursuance of rules and regulations prescribed by the Secretary of the Treasury. And the Secretary of the Treasury may appoint such officers at places where officers of the Customs are not now authorized by law, as may be needed to carry into effect such licenses, rules, and regulations; and officers of the Custom and other officers shall receive for services under this section, and under said rules and regulations, such fees and compensation as are now allowed for similar services under other provisions of this law."

This Act confers no new power upon the President, or the Secretary of the Treasury over the internal trade of Maryland. The President has named the States in insurrection, and Maryland is not of the number. The commercial intercourse, which he is to direct and control, is with the States in insurrection.

That part of the Act of May, 1862, which refers to the subject, is as follows:

"That the Secretary of the Treasury be, and he is hereby further empowered to prohibit and prevent the transportation in any vessel, or upon any Rail Road, turnpike, or other road or means of transportation within the United States, of any goods, wares or merchandise of whatever character, and whatever may be the ostensible destination of the same, in all cases where there shall be satisfactory reasons to believe that such goods, wares or mer-

chandise are intended for any place in the possession of or under control of insurgents against the United States; or that there is imminent danger that such goods, wares or merchandise will fall into the possession or under the control of such insurgents; and he is further authorized, in all cases where he shall deem it expedient so to do, to require reasonable security to be given that goods, wares or merchandise shall not be transported to any place under insurrectionary control, and shall not in any way be used to give aid or comfort to such insurgents, and he may establish all such general or special regulations as may be necessary to carry into effect the purposes of this Act; and if any goods, wares or merchandise shall be transported in violation of this Act, or of any regulation of the Secretary of the Treasury established in pursuance thereof, or if any attempt shall be made so to transport them, all goods, wares or merchandise so transported, or attempted to be transported, shall be forfeited to the United States."

The powers of the Secretary under this Act are,

First, To *prohibit* or *prevent* the *transportation* of goods, in all cases "where there shall be satisfactory reasons to believe, that such goods, wares, or merchandise are intended for any place in possession or under the control of insurgents against the United States, or that there is imminent danger that they will fall into the possession or under the control of such insurgents."

Second, In all cases, when he shall deem it expedient, he is authorized *to require "reasonable security to be given,"* that goods, wares, and merchandise shall not be transported to any place under insurrectionary control, and shall not be used to give aid or comfort to such insurgents.

Third, He may establish "general or special regulations" necessary or proper to carry into effect the purposes of this Act.

The first two powers enumerated, do not authorize him to require permits. He is to *prohibit* and *prevent* transportation in the first, and to *require security* in the second.

Does his power to establish regulations to carry out the purposes of this Act authorize him to require *permits* from Baltimore to any part of Maryland?

These regulations prohibit transportation to any part of Maryland South of the Annapolis and Washington Rail Road, without a permit. There are invoices, affidavits, and a fee required as a condition of the permit, and if any false statement be made, or deception practised, under the regulations the goods are forfeited.

First, There is no allegation in the libel, nor is it proved as a fact, that this restricted part of Maryland was in a state of insurrection.

Second, There is no allegation that goods sent to this particular locality were in danger of reaching the insurgents.

Third, As matter of fact, there was nothing new or unusual in the trade from Baltimore to that part of Maryland.

Fourth, If the Secretary considered, that goods going to that part of Maryland were in danger of falling into the hands of insurgents, he should have *forbid* their going, or *required security*, and not have PERMITTED them to go.

Fifth, These rules of the Secretary of the Treasury are not within the powers granted by the Act of Congress. They do not regulate and carry out existing laws; but are legal enactments themselves. Congress alone can make laws to regulate captures by land or water.

Sixth, The Secretary of the Treasury is a ministerial officer. Congress cannot give to him legislative or judicial powers. Any power or discretion which they give him must therefore be understood to be simply ministerial.

Seventh, Congress could not have authorized these regulations. Maryland, according to the allegations of the libel, was not an insurgent State; and Congress had no power to regulate her internal commerce, and to require her trade to pass through the Custom House.

Eighth, It is the state of war between the two sections that makes the intercourse between them unlawful, and the Act of Congress recognizes the bounds of the war as the limit of the non-intercourse. The regulations of the Treasury, to be valid, must recognize the same bounds.

In this case it must be conceded that the goods were not going to an insurrectionary State, as it is not so alleged and proved.

Wheaton on Maritime Captures, ch. 7, page 204.
Jeker *vs.* Montgomery, 18 How. 112.
Brown *vs.* The United States, 8 Cr. 110.
Littel, et al. *vs.* Beaumont, et al. 2 Cr. 170.

Ninth, The Treasury order in question has been repealed.
Keller *vs.* State, 12 Md. 326.

Wm. Madison.

WM. S. WATERS,
*Proctor for Appellee.*